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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,355	01/05/2001	Kang-Yun Moon	0630-1213P	3314

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EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/754,355	<b>Applicant(s)</b> MOON, KANG-YUN	
	<b>Examiner</b> Victor R. Kostak	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Regarding a first matter, the substitute specification filed on 08/14/03 is missing the last page. The examiner regrets not pointing this out earlier in prosecution.

2. Applicant's arguments filed on 10/18/04 have been fully considered but they are not persuasive. The previous rejection accordingly still applies and is repeated from the last Office action presented below. Applicant's arguments are addressed in the context of the rejection. The highlighted sections presented to point out to assist applicant in recognizing explicit teachings and valid motivation for obviousness based on the cited prior art.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuria (of record) in view of Grossman (also of record).

*Tsuria* (Fig. 1) **discloses** a digital television system (col. 3 lines 1-4) that includes a central processor 28 for **receiving plural advertisement data associated with separate channels** (col. 3 lines 66-67) downloaded from the cable headend from respective providers and stored in memory 30. TV unit 14 **displays the advertisement data prompted by a user when a channel change is made** (col. 2 lines 64-67), wherein the processor retrieves the message data pertaining to the corresponding newly-selected channel (col. 2 lines 1-4; col. 3 line 66 – col. 4 line 6 and lines 10-15), **during the gap between the old channel and the new channel**.

*Although Tsuria does not specify the content of the channel-related advertisements (he does mention slide-type with voice accompaniment: col. 3 lines 54-57), it would have been clearly obvious to present any form of advertisement associated with the respective channels, such as the channel broadcaster identifier or future program titles or image data shown on that channel. One of ordinary skill in the art is not disallowed to consider any and all types of channel-associated advertisements because Tsuria does not specify nor exclude any type. Tsuria does however specify the presentation of data during the zapping period as being ads associated per respective channel.*

*Furthermore, in view of the very similar type of system disclosed by Grossman (discussed in previous communications), who allows for “any information of commercial value, such as a corporate logo (or) a trademark” (col. 3 lines 35-37) to be displayed during the zapping period, it would have been further obvious to present corporate logos or trademarks of any company. Like Tsuria, the ads are downloaded from the headend and stored (memories 40, 44) for appropriately timed retrieval. One of ordinary skill in the art is not disallowed to consider television broadcasters as belonging to the group of corporations. One of ordinary skill in the art is instead very well aware of such broadcasters being associated with respective channels, readily identifiable by their corporate logos (e.g. NBC peacock, CBS eye).*

*Therefore, in view of the explicit disclosure of Tsuria regarding the display of channel-related advertisements during zapping periods specifically pertaining to the new channel, and in view of the very similar system of Grossman who gives clear and encompassing allowance of what to display during channel changing periods, it would accordingly have been obvious to display the broadcasters’ logos during zapping.*

Applicant does not accept this sound combination and rationale presented by the examiner that is clearly suggested in the prior art, but instead argues the burden required by the examiner. That burden has clearly been met as is evident from the rejection. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In so far as applicant alleging that the logos are presented “*to facilitate identification of the selected channel*,” that is a redundant description. The purpose of and reason for creating a logo unique to a product or company is exactly for readily identifying that product or logo.

Preempting applicant's argument that it is not inherent, attached hereto is a definition of “*logo*” that points out its purpose for ready identification of what it represents.

Therefore, in view of all this, the limitations recited in claims 16 and 29 have been met. The rejections of the remaining claims were not individually argued by applicant.

As for claim 23, A/V signal processing is contained within tuner 19.

As for claims 17, 24 and 30, the ads of both Tsuria and Grossman are displayed on-screen between the next and previous channels (col. 4 lines 1-5 of Tsuria).

Regarding claims 18, 25 and 31, only the ad is displayed during the gap (col. 3 line 67 – col. 4 line 4), and in icon form as modified by Grossman.

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As for claims 19, 26 and 32, the plural ads are stored in memory 30 of Tsuria (in memories 40 or 44 of Grossman), and each ad is recalled or looked up individually from the database according to the channel indexing. The retrieval therefore is in the form of a look-up table.

As for claims 20, 27 and 33, the icon data would accordingly represent the corporate logos pertaining to each respective channel.

Considering claims 21 and 34, the program associated with the selected channel is eventually displayed after termination of the zapping period.

As for claims 22, 28 and 35, Tsuria does not disclose the component hardware in specific detail pertaining to the standard A/V signal processing, since he focuses on the advertisement retrieval feature. It would nonetheless have been clearly obvious to include typical program memory (besides the ad memories 30, and 40 and 44 of Grossman) since the receiver must be responsive to the interfacing with the user and to carry out respective processing operations, such as by accessing ROM 40 for control programming as disclosed by Grossman (col. 6 lines 15-17 and lines 33-40).

4. *Applicant is reminded that Laskey (previously applied) teaches display of a channel hat or icon related to the currently switched to channel (col. 6 lines 28-35).*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**Any response to this final action should be mailed to:**

Box AF  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9306 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak  
Primary Examiner  
Art Unit 2614

VRK